

IC 27-6-10

Chapter 10. Credit for Reinsurance

IC 27-6-10-1

"Accredited reinsurer"

Sec. 1. (a) As used in this chapter, "accredited reinsurer" means an insurer that:

- (1) files with the commissioner evidence of the insurer's submission to Indiana jurisdiction;
- (2) submits to Indiana authority to examine the insurer's books and records;
- (3) is:
 - (A) licensed to transact insurance or reinsurance in at least one (1) state; or
 - (B) in the case of a United States branch of an alien assuming insurer, entered through and licensed to transact insurance or reinsurance in at least one (1) state;
- (4) files annually with the commissioner a copy of the insurer's annual statement filed with the insurance department of the insurer's state of domicile and a copy of the insurer's most recent audited financial statement; and
- (5) demonstrates to the commissioner's satisfaction that the insurer:
 - (A) has adequate financial capacity to meet the insurer's reinsurance obligations; and
 - (B) is otherwise qualified to assume reinsurance from domestic insurers.

(b) An assuming insurer is considered to meet the requirement specified in subsection (a)(5) as of the time of the assuming insurer's application for accreditation if:

- (1) the assuming insurer maintains a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000); and
- (2) the assuming insurer's accreditation has not been denied by the commissioner within ninety (90) days after submission of the assuming insurer's application.

As added by P.L.116-1994, SEC.54. Amended by P.L.81-2012, SEC.22.

IC 27-6-10-2

"Ceding insurer"

Sec. 2. As used in this chapter, "ceding insurer" has the meaning set forth in IC 27-6-1.1-1.

As added by P.L.116-1994, SEC.54.

IC 27-6-10-2.2

"Certified reinsurer"

Sec. 2.2. As used in this chapter, "certified reinsurer" means an assuming insurer that is certified by the commissioner under section 11.5 of this chapter.

As added by P.L.81-2012, SEC.23.

IC 27-6-10-3

"Commissioner"

Sec. 3. As used in this chapter, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

As added by P.L.116-1994, SEC.54.

IC 27-6-10-4

"Department"

Sec. 4. As used in this chapter, "department" refers to the department of insurance created under IC 27-1-1-1.

As added by P.L.116-1994, SEC.54.

IC 27-6-10-5

"Qualified United States financial institution" as used in IC 27-6-10-14(c)(3)

Sec. 5. As used in section 14(c)(3) of this chapter, "qualified United States financial institution" means an institution that:

- (1) is organized, or in the case of a United States office of a foreign banking organization licensed, under the laws of the United States or any state thereof;
- (2) is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and
- (3) has been determined by the commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet the standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

As added by P.L.116-1994, SEC.54. Amended by P.L.81-2012, SEC.24.

IC 27-6-10-6

"Qualified United States financial institution" as used in IC 27-6-10-11(a) and IC 27-6-10-14(b)

Sec. 6. As used in sections 11(a) and 14(b) of this chapter, "qualified United States financial institution" means an institution that:

- (1) is organized, or in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and
- (2) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

As added by P.L.116-1994, SEC.54.

IC 27-6-10-7

Asset or reduction from liability; requirements

Sec. 7. Credit for reinsurance shall be allowed to any domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only as follows:

(1) The reinsurer meets the requirements of one (1) of the following:

(A) Only with respect to cessions of the kind of insurance or reinsurance business for which the assuming insurer is licensed or otherwise permitted to assume in:

(i) the assuming insurer's state of domicile; or

(ii) with respect to a United States branch of an alien assuming insurer, the state through which the alien assuming insurer is entered and licensed to engage in the business of insurance or reinsurance;

section 8, 9, or 10 of this chapter.

(B) Sections 10 and 12 of this chapter.

(C) Sections 11 and 12 of this chapter.

(D) Section 11.5 of this chapter.

(E) Section 13 of this chapter.

(2) The reinsurance contract provides in substance that, in the event of the insolvency of the ceding insurer, the reinsurance is payable under a contract reinsured by the assuming insurer on the basis of reported claims allowed in the liquidation proceedings, subject to court approval, without diminution because of the insolvency of the ceding insurer. Payments under this subdivision must be made directly to the ceding insurer or to the ceding insurer's domiciliary liquidator except as provided in IC 27-9-3-30.1. The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to an assuming insurer of the pendency of a claim against the ceding insurer on the contract reinsured within a reasonable time after the claim is filed in the liquidation proceeding. During the pendency of the claim, any assuming insurer may investigate the claim and interpose in the proceeding where the claim is to be adjudicated, at the assuming insurer's expense, any defenses that the assuming insurer considers available to the ceding insurer or the liquidator. If two (2) or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to the claim, the expense must be apportioned under the terms of the reinsurance agreement as though the expense had been incurred by the ceding insurer.

As added by P.L.116-1994, SEC.54. Amended by P.L.233-1999, SEC.7; P.L.11-2011, SEC.26; P.L.81-2012, SEC.25.

IC 27-6-10-8**Assuming insurer licensed to transact insurance or reinsurance**

Sec. 8. As provided in section 7 of this chapter, credit for reinsurance shall be allowed a domestic ceding insurer when the reinsurance is ceded to an assuming insurer that is licensed to transact

insurance or reinsurance in Indiana.
As added by P.L.116-1994, SEC.54.

IC 27-6-10-9

Credit for reinsurance ceded to accredited reinsurer

Sec. 9. As provided in section 7 of this chapter, credit for reinsurance shall be allowed a domestic ceding insurer when the reinsurance is ceded to an assuming insurer that is an accredited reinsurer in Indiana.

As added by P.L.116-1994, SEC.54. Amended by P.L.81-2012, SEC.26.

IC 27-6-10-10

Assuming insurer domiciled or entering through another state

Sec. 10. As provided in section 7 of this chapter, credit shall be allowed a domestic ceding insurer when the reinsurance is ceded to an assuming insurer:

(1) that:

(A) is domiciled in; or

(B) in the case of a United States branch of an alien assuming insurer, is entered through;

a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this chapter;

(2) that:

(A) maintains a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000); and

(B) submits to the authority of Indiana to examine the insurer's books and records;

provided, however, that the requirement of clause (A) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system; and

(3) that complies with section 12 of this chapter.

As added by P.L.116-1994, SEC.54. Amended by P.L.81-2012, SEC.27.

IC 27-6-10-11

Assuming insurer maintenance of trust fund; requirements for form and content of trust; reports

Sec. 11. (a) As provided in section 7 of this chapter and subject to section 13.3 of this chapter, credit for reinsurance shall be allowed a domestic ceding insurer when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution (as defined in section 6 of this chapter) for the payment of the valid claims of its United States ceding insurers, their assigns, and successors in interest, and the assuming insurer complies with section 12 of this chapter. In order for the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner

substantially the same information as that required to be reported by licensed insurers on the National Association of Insurance Commissioners' annual statement form. The assuming insurer shall submit to the examination of the assuming insurer's books and records by the commissioner and shall bear the expense of the examination. A trust maintained under this section shall comply with the provisions of this section.

(b) The form of a trust described in subsection (a) and any amendments to the trust must:

(1) have been approved by:

(A) the commissioner of the state where the trust is domiciled; or

(B) the commissioner of another state who, under the terms of the trust instrument, has accepted principal regulatory oversight of the trust; and

(2) be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled.

(c) The following requirements apply to the following categories of assuming insurer:

(1) In the case of a trust of a single assuming insurer, the following apply:

(A) The trust fund shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers.

(B) Except as provided in clause (C), the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars (\$20,000,000).

(C) After the assuming insurer has, for at least three (3) full years, permanently discontinued underwriting new business secured by the trust and the commissioner that has principal regulatory oversight of the trust has performed a risk assessment:

(i) that may involve an actuarial review, including an independent analysis of reserves and cash flows; and

(ii) that considers all material risk factors, including the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements specified in clause (B) on the assuming insurer's liquidity or solvency;

and determined that a surplus level that is less than the amount required by clause (B) is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development, the commissioner may authorize a reduction in the trusteed surplus amount required by clause (B). However, the amount required by clause (B) may not be reduced to an amount less than thirty percent (30%) of the assuming insurer's liabilities that are attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(2) In the case of a group including incorporated and individual

unincorporated underwriters that is an assuming insurer, the following apply:

(A) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date after December 31, 1992, the trust shall consist of a trustee account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States ceding insurers to any underwriter of the group.

(B) Notwithstanding any other provision of this chapter, for reinsurance ceded under reinsurance agreements with an inception date before January 1, 1993, and not amended or renewed after December 31, 1992, the trust shall consist of a trustee account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States.

(C) In addition to the trusts described in clauses (A) and (B), the group shall maintain in trust a trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group for all years of account.

(D) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.

Not more than ninety (90) days after the group's financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member. However, if a certification is unavailable, the group shall provide to the commissioner financial statements of each underwriter member of the group, prepared by independent public accountants.

(3) In the case of a group of incorporated underwriters under common administration that is an assuming insurer, the group:

(A) must have continuously transacted an insurance business outside the United States for at least three (3) years immediately before making application for accreditation;

(B) shall maintain an aggregate policyholders' surplus of at least ten billion dollars (\$10,000,000,000);

(C) shall maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group under reinsurance contracts issued in the name of the group;

(D) shall maintain a joint trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any such

liabilities; and

(E) shall, not more than ninety (90) days after the group's financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner:

- (i) an annual certification of each underwriter member's solvency by the member's domiciliary regulator; and
- (ii) financial statements of each underwriter member of the group prepared by the member's independent public accountant.

(d) The trust instrument of a trust shall provide that contested claims are valid and enforceable upon the final order of any court with jurisdiction in the United States.

(e) A trust shall vest legal title to the trust's assets in the trustees of the trust for the benefit of the assuming insurer's United States ceding insurers, their assigns, and successors in interest.

(f) A trust and the assuming insurer shall be subject to examination as determined by the commissioner.

(g) A trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(h) Not later than February 28 of each year the trustee of a trust permitted under this section shall report in writing to the commissioner the following information:

- (1) The balance of the trust.
- (2) A listing of the trust's investments at the preceding year end.
- (3) A certification of the date of termination of the trust, if applicable, or a certification that the trust shall not expire before the following December 31.

(i) Credit may only be permitted under this section if an assuming insurer also complies with section 12 of this chapter.

As added by P.L.116-1994, SEC.54. Amended by P.L.81-2012, SEC.28.

IC 27-6-10-11.5

Credit for reinsurance ceded to certified reinsurer; certification requirements; qualified jurisdictions; ratings

Sec. 11.5. (a) As provided in section 7 of this chapter and subject to section 13.3 of this chapter, credit for reinsurance shall be allowed a domestic ceding insurer when the reinsurance is ceded to an assuming insurer that:

- (1) has been certified as a certified reinsurer by the commissioner in Indiana; and
- (2) secures the assuming insurer's obligations as required by this section.

(b) An assuming insurer must do all of the following to be eligible for certification under this section:

- (1) Be domiciled and licensed to engage in insurance or reinsurance business in a jurisdiction that has been determined under subsection (d) or (e) by the commissioner to be a qualified jurisdiction.

- (2) Maintain minimum capital and surplus, or the equivalent, in an amount determined by the commissioner in rules adopted under IC 4-22-2.
- (3) Maintain financial strength ratings from at least two (2) rating agencies that the commissioner determines acceptable under rules adopted under IC 4-22-2.
- (4) Agree to submit to the jurisdiction of Indiana.
- (5) Appoint the commissioner as the assuming insurer's agent for service of process in Indiana.
- (6) Agree to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final United States judgment.
- (7) Agree to meet information filing requirements determined by the commissioner, at the time of application for certification and on an ongoing basis.
- (8) Satisfy any other requirements specified by the commissioner.

(c) An association that includes incorporated and individual unincorporated underwriters may be certified under this section if all of the following requirements are met:

- (1) The association must meet all of the requirements described in subsection (b).
- (2) The association must satisfy the association's minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and the association's members, including a joint central fund:
 - (A) that may be applied to any unsatisfied obligation of the association or any of the association's members; and
 - (B) in an amount determined by the commissioner to provide adequate protection.
- (3) The incorporated members of the association:
 - (A) may not engage in any business other than underwriting as a member of the association; and
 - (B) are subject to the same level of regulation and solvency control by the association's domiciliary regulator as the level that applies to the unincorporated members of the association.
- (4) Not more than ninety (90) days after the association's financial statements are due to be filed with the association's domiciliary regulator, the association must provide to the commissioner:
 - (A) an annual certification by the association's domiciliary regulator of the solvency; or
 - (B) if a certification is unavailable, financial statements prepared by the independent public accountant;
of each underwriter member of the association.

(d) The commissioner shall create and publish a list of non-United States jurisdictions that the commissioner determines are qualified jurisdictions. The following requirements apply to the commissioner's

creation, publication, maintenance, and use of the list created and published under this subsection:

(1) In determining whether a jurisdiction is a qualified jurisdiction, the commissioner shall:

(A) initially and on an ongoing basis, evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction;

(B) consider the rights, benefits, and extent of reciprocal recognition afforded by the jurisdiction to reinsurers licensed and domiciled in the United States;

(C) consider the list of qualified jurisdictions that is published by the National Association of Insurance Commissioners committee process; and

(D) consider any other factors that the commissioner considers necessary, including any of the following:

(i) The framework under which the assuming insurer is regulated.

(ii) The structure and authority of the domiciliary regulator with respect to solvency requirements and financial surveillance.

(iii) The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

(iv) The form and substance of financial reports required to be filed or made public by reinsurers in the domiciliary jurisdiction, and the accounting principals used.

(v) The domiciliary regulator's willingness to cooperate with United States regulators and the commissioner.

(vi) The history of performance by assuming insurers in the domiciliary jurisdiction.

(vii) Documented evidence of substantial problems in the domiciliary jurisdiction with the enforcement of final United States judgments.

(viii) Relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or a successor organization.

(2) A jurisdiction considered for qualification under this subsection must:

(A) agree to share information and cooperate with the commissioner with respect to all certified reinsurers that are domiciled in the jurisdiction; and

(B) not have been determined by the commissioner not to have adequately and promptly enforced final United States judgments and arbitration awards;

to be determined to be a qualified jurisdiction.

(3) If the commissioner determines that a jurisdiction is qualified, but the qualified jurisdiction does not appear on the National Association of Insurance Commissioners list described in subdivision (1)(C), the commissioner must thoroughly document the commissioner's justification for the determination

in accordance with criteria established by the commissioner in rules adopted under IC 4-22-2.

(e) The commissioner:

- (1) shall consider a United States jurisdiction that meets the requirements for accreditation under the National Association of Insurance Commissioners financial standards and accreditation program to be a qualified jurisdiction; and
- (2) may, instead of revocation, indefinitely suspend a certified reinsurer's certification under this section if the certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction.

(f) The commissioner shall:

- (1) after considering the financial strength ratings assigned to the certified reinsurer by rating agencies considered acceptable to the commissioner according to rules adopted under IC 4-22-2, assign a rating to each certified reinsurer; and
- (2) publish a list of all certified reinsurers and the rating assigned to each certified reinsurer under subdivision (1).

(g) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this section at a level consistent with the rating assigned by the commissioner under subsection (f), as follows:

(1) For a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security:

- (A) in a form acceptable to the commissioner and consistent with section 14 of this chapter; or
- (B) in a multibeneficiary trust under section 11 of this chapter.

(2) If a certified reinsurer:

- (A) maintains a trust to fully secure the certified reinsurer's obligations under section 11 of this chapter; and
- (B) chooses to secure the certified reinsurer's obligations incurred as a certified reinsurer under this section in the form of a multibeneficiary trust;

the certified reinsurer shall maintain separate trust accounts for the certified reinsurer's obligations under section 11 of this chapter and for the certified reinsurer's obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security under this section or comparable laws of other United States jurisdictions.

(3) If a certified reinsurer described in subdivision (2) has not agreed:

- (A) in the language of the trust; and
- (B) under an agreement with the commissioner that has principal regulatory oversight of each trust account described in subdivision (2);

to fund, upon termination of any of the trust accounts and from the surplus of the terminated trust account, any deficiency of any of the other trust accounts, the commissioner shall revoke

the certified reinsurer's certification under this section.

(4) The minimum trusteed surplus requirements of section 11 of this chapter do not apply with respect to a multibeneficiary trust that is maintained by a certified reinsurer for the purpose of securing obligations incurred by the certified reinsurer under this section. However, the multibeneficiary trust must maintain a minimum trusteed surplus of at least ten million dollars (\$10,000,000).

(5) If the security for obligations incurred by a certified reinsurer under this section is insufficient, the commissioner:

(A) shall reduce the allowable credit by an amount in proportion to the deficiency; and

(B) may impose further reductions in the allowable credit if the commissioner determines that a material risk exists that the certified reinsurer's obligations will not be paid in full when the obligations are due.

(6) If the certification of an assuming insurer under this section is revoked, suspended, inactivated, or voluntarily surrendered, the commissioner shall, for purposes of reinsurance in force:

(A) except as provided in clause (B), regulate the assuming insurer as if the assuming insurer were a certified reinsurer; and

(B) require that the assuming insurer provide security for one hundred percent (100%) of the assuming insurer's obligations attributable to the reinsurance in force.

However, clause (B) does not apply to an assuming insurer after certification is suspended or inactivated if, after suspension or inactivation, the commissioner assigns a new rating to the assuming insurer that is higher than the rating assigned under subsection (f)(1) before certification was suspended or inactivated.

(h) If an assuming insurer that applies for certification under this section is a certified reinsurer in a jurisdiction that is accredited by the National Association of Insurance Commissioners, the commissioner may:

(1) defer to the:

(A) accredited jurisdiction's certification of the assuming insurer; and

(B) rating assigned to the assuming insurer by the accredited jurisdiction; and

(2) consider the assuming insurer a certified reinsurer in Indiana without the assuming insurer meeting the requirements of subsection (b)(2) and (b)(3).

(i) A certified reinsurer that ceases to assume new business in Indiana may request that the commissioner allow the certified reinsurer to maintain certification in inactive status to continue to qualify for the reduction in security for the certified reinsurer's in-force business in Indiana. If inactive status is granted by the commissioner, the certified reinsurer shall continue to comply with this section and the commissioner shall, after considering the reasons

that the certified reinsurer has ceased assuming new business in Indiana, assign a new rating to the certified reinsurer.

(j) If a certified reinsurer continues throughout the year to pay claims in a timely manner, the certified reinsurer is not, for one (1) year after the date of the first liability reserve entry by a ceding company resulting from a loss from a catastrophic occurrence recognized by the commissioner, required to post security for the catastrophe recoverables in the following lines of business (as reported on the National Association of Insurance Commissioners annual financial statement and specifically related to the catastrophic occurrence):

- (1) Fire.
- (2) Allied lines.
- (3) Farmowners multiple peril.
- (4) Homeowners multiple peril.
- (5) Commercial multiple peril.
- (6) Inland marine.
- (7) Earthquake.
- (8) Motor vehicle physical damage.

As added by P.L.81-2012, SEC.29.

IC 27-6-10-12

Assuming insurers not licensed, accredited, or certified in Indiana

Sec. 12. If an assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in Indiana, the credit permitted by sections 10 and 11 of this chapter shall not be allowed unless the assuming insurer agrees in the reinsurance agreements to all of the following:

- (1) That in the event of the failure of the assuming insurer to perform the assuming insurer's obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall:
 - (A) submit to the jurisdiction of any court with jurisdiction in any state of the United States;
 - (B) comply with all requirements necessary to give the court described in clause (A) jurisdiction; and
 - (C) abide by the final decision of the court or of any appellate court in the event of an appeal.
- (2) To designate the commissioner or an attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

This section is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

As added by P.L.116-1994, SEC.54. Amended by P.L.81-2012, SEC.30.

IC 27-6-10-13

Assuming insurer failure to meet requirements

Sec. 13. Credit shall be allowed to a domestic ceding insurer when the reinsurance is ceded to an assuming insurer not meeting the requirements of sections 8, 9, 10, 11, or 11.5 of this chapter, but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

As added by P.L.116-1994, SEC.54. Amended by P.L.81-2012, SEC.31.

IC 27-6-10-13.3

Assuming insurer failure to meet requirements; requirements for exception to disallowance of credit

Sec. 13.3. If an assuming insurer does not meet the requirements of section 8, 9, or 10 of this chapter, a credit allowed under section 11 or 11.5 of this chapter is not allowed unless the assuming insurer agrees in the trust agreements under section 11 or 11.5 of this chapter to the following:

(1) That if the trust fund is inadequate because the:

(A) trust fund contains less than the amount required by section 11(c) of this chapter; or

(B) grantor of the trust is declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the law of the grantor's domiciliary state or country;

the trustee shall comply with an order of the commissioner that has regulatory oversight of the trust or of a court with jurisdiction directing the trustee to transfer all assets of the trust fund to the commissioner that has regulatory oversight of the trust.

(2) That:

(A) the assets of the trust will be distributed by, and claims will be filed with and valued by, the commissioner that has regulatory oversight of the trust; and

(B) the assets of the trust will be distributed under, and claims will be filed and valued under, the laws of the domiciliary state of the trust that apply to liquidation of domestic insurers.

(3) That if the commissioner that has regulatory oversight of the trust determines that any part of the assets of the trust fund is unnecessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the commissioner that has regulatory oversight of the trust shall return the unnecessary part of the assets to the trustee for distribution under the trust agreement.

(4) That the grantor of the trust waives any legal right under United States law that is inconsistent with this section.

As added by P.L.81-2012, SEC.32.

IC 27-6-10-13.6

Accredited or certified reinsurer failure to meet requirements;

suspension or revocation

Sec. 13.6. If an accredited reinsurer or a certified reinsurer ceases to meet the requirements for accreditation or certification under this chapter, the commissioner may suspend or revoke the accreditation or certification as follows:

(1) After the reinsurer receives from the commissioner notice and the opportunity for a hearing, the commissioner may order suspension or revocation of the accreditation or certification, which takes effect after the hearing unless one (1) of the following occurs:

(A) The reinsurer waives the right to a hearing.

(B) The commissioner's order is based on:

(i) regulatory action by the reinsurer's domiciliary jurisdiction; or

(ii) the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in the reinsurer's domiciliary jurisdiction or in the reinsurer's primary certifying jurisdiction described in section 11.5(h) of this chapter.

(C) The commissioner determines that an emergency requires immediate action and a court with jurisdiction has not stayed the commissioner's action based on the determination.

(2) If a reinsurer's accreditation or certification is suspended under this section, credit for reinsurance is not allowed for a reinsurance contract that is issued or renewed by the reinsurer during the period of suspension except to the extent that the reinsurer's obligations under the reinsurance contract are secured under section 14 of this chapter.

(3) If a reinsurer's accreditation or certification is revoked under this section, credit for reinsurance is not allowed for a reinsurance contract that is issued or renewed by the reinsurer after the effective date of the revocation except to the extent that the reinsurer's obligations under the reinsurance contract are secured under section 11.5(g) or 14 of this chapter.

As added by P.L.81-2012, SEC.33.

IC 27-6-10-13.8**Ceding insurer exposure management requirements**

Sec. 13.8. (a) A ceding insurer shall manage the ceding insurer's reinsurance recoverables in proportion to the ceding insurer's own book of business. A domestic ceding insurer shall, not more than thirty (30) days after reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers:

(1) exceeds; or

(2) is determined by the domestic ceding insurer to be likely to exceed;

fifty percent (50%) of the domestic ceding insurer's last reported surplus to policyholders, notify the commissioner concerning the actual or likely exposure.

(b) A ceding insurer shall diversify the ceding insurer's reinsurance program. A domestic ceding insurer shall, not more than thirty (30) days after:

- (1) ceding to any single assuming insurer or group of affiliated assuming insurers reinsurance in excess of; or
- (2) determining that the reinsurance ceded to any single assuming insurer or group of affiliated assuming insurers is likely to exceed;

twenty percent (20%) of the domestic ceding insurer's gross written premium in the preceding calendar year, notify the commissioner concerning the actual or likely exposure.

(c) A notice required by subsection (a) or (b) must include evidence that the domestic ceding insurer is safely managing the actual or likely exposure.

As added by P.L.81-2012, SEC.34.

IC 27-6-10-14

Reduction from liability for reinsurance ceded to assuming insurer not meeting statutory requirements; amount; security

Sec. 14. (a) An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 8, 9, 10, 11, 11.5, 12, 13, 13.3, 13.6, or 13.8 of this chapter shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer.

(b) The reduction permitted under subsection (a) shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder. The security must be held:

- (1) in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or
- (2) in the case of a trust, in a qualified United States financial institution (as defined in section 6 of this chapter).

(c) The security described under subsection (b) may be in the following forms:

- (1) Cash.
- (2) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including securities that are considered exempt from filing (as defined by the Purposes and Procedures Manual of the Securities Valuation Office), and qualifying as admitted assets.
- (3) Clean, irrevocable, unconditional letters of credit:
 - (A) issued or confirmed by a qualified United States financial institution (as defined in section 5 of this chapter);
 - (B) effective not later than December 31 in the year for which the filing is being made; and
 - (C) in the possession of or in trust for the ceding insurer on or before the filing date of the ceding insurer's annual statement.

Letters of credit that meet applicable standards of issuer

acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until the earlier of their expiration, extension, renewal, modification, or amendment.

(4) Any other form of security acceptable to the commissioner.

As added by P.L.116-1994, SEC.54. Amended by P.L.2-1995, SEC.105; P.L.81-2012, SEC.35.

IC 27-6-10-15

Implementation of chapter

Sec. 15. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.116-1994, SEC.54.

IC 27-6-10-16

Repealed

(Repealed by P.L.81-2012, SEC.36.)